

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

DEJUAN HICKSON, Plaintiff, v. CITY OF DURANT, THOMAS BILLY, RICKY FORD, MICHAEL GOODLOW, and THOMAS ROBERTSON, Defendant.	Case No. CIV-23-208-RAW-JAR
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ORDER

Plaintiff brought this action on May 19, 2023, in the District Court of Bryan County, Oklahoma. Defendants filed their Notice of Removal pursuant to 28 U.S.C. § 1441 on June 26, 2023. Plaintiff filed his Amended Complaint on December 1, 2023. Plaintiff alleges that on September 6, 2021, Officer Thomas Billy entered his home, attacked him, and arrested him without probable cause. Plaintiff brings eight claims for violations of his federal constitutional and state law rights. Five of those claims, including one for malicious prosecution and one for intentional infliction of emotional distress, he brings against the City of Durant (the “City”).

Now before the court is the City’s partial motion to dismiss seeking dismissal of the state law claims for malicious prosecution and intentional infliction of emotional distress pursuant to Fed. R. Civ. P. 12(b)(6) [Docket No. 31]. Also before the court is Magistrate Judge Robertson’s Report and Recommendation (“R&R”) [Docket No. 44], recommending that the motion be granted, as the Plaintiff neither responded to the motion, nor sought an extension of the deadline

to respond to the motion. The R&R was filed on January 31, 2024, and to date no objection has been filed.*

After a *de novo* review of the record in this case and the City's partial motion to dismiss, the R&R [Docket No. 44] is hereby affirmed and adopted as this court's Findings and Order. The City's partial motion to dismiss [Docket No. 31] is hereby GRANTED. The claims for malicious prosecution and intentional infliction of emotional distress against the City are hereby DISMISSED.

IT IS SO ORDERED this 6th day of June, 2024.



THE HONORABLE RONALD A. WHITE
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF OKLAHOMA

* The court notes that the City has since filed a motion for summary judgment as to the § 1983 claim against it, and the Plaintiff has failed to respond to it as well. In response to a show cause order filed on May 6, 2024, Plaintiff stated *inter alia* that “[t]he delay in filing a response to Defendant’s summary judgment motion is due to the inability to obtain that information until recently.” Plaintiff has yet to file a response.